

FILED

MAY - 2 2008

CLERK, U.S. DISTRICT COURT,  
WESTERN DISTRICT OF TEXAS  
BY [Signature] DEPUTY CLERK

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

SHELLEY THOMSON,  
Plaintiff,

versus

CHARLES E. LINCOLN &  
PEYTON YATES FREIMAN,  
Defendants.

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Civil Action No:  
5:08-cv-00105-FB

[274<sup>th</sup> Texas District Court, Comal  
County, Cause No. 2008-119-C]

**SUPPLEMENT TO DEFENDANT'S**  
**RULE 59(a) MOTION FOR NEW TRIAL OR RULE 59(e)**  
**MOTION TO ALTER JUDGMENT OF REMAND UNDER**  
**COLLATERAL ORDER DOCTRINE**

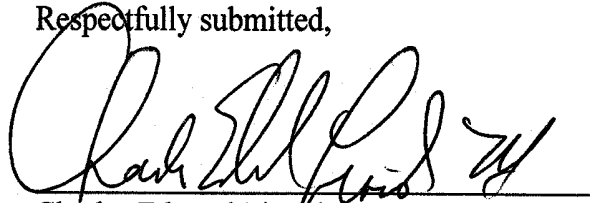
Defendant realizes that this court must concern itself first with the reinstatement of the removed case of Shelley Sue Thomson against Charles Edward Lincoln under the collateral order rather than the additional collateral issue of David A. Sibley's disqualification, but David A. Sibley's attached Motion to Withdraw, just recently submitted in this case in and remanded to Comal County, is filled with admissions and insights which may assist this court in determining whether Defendant Charles Edward Lincoln's position is really frivolous or deserving of judicial protection. The undersigned Defendant has really and truly never seen an attorney, even David A. Sibley, turn so viciously on his own client---but the undersigned assures this Court that he is both morally and ethically opposed to "witch hunts" or "witch burnings" of any kind.

Defendant earnestly PRAYS for the reinstatement of this case under the collateral order doctrine. There is NO obstacle by way of subject-matter jurisdiction of this court, and Judge Walter S. Smith's orders of March 25 and April 4 were entered in the complete absence of both personal and subject matter jurisdiction over Defendant Charles Edward

Lincoln. For that legal reason alone, as well as equitable reasons of justice and fairness, this Court should NOT remand the case of Thomson v. Lincoln to Comal County where Lincoln cannot adequately defend himself---against witches or anyone else!

Wednesday April 30, 2008  
Beltane/Walpurgisnacht  
(Night of the Witches)

Respectfully submitted,

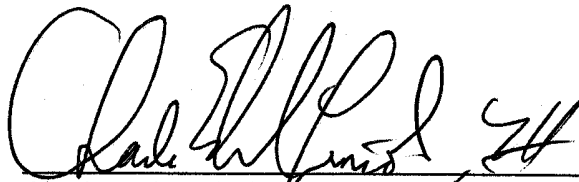
A handwritten signature in black ink, appearing to read "Charles Edward Lincoln, III", written over a horizontal line.

Charles Edward Lincoln, III, *pro se*  
1250 South Pinellas Avenue, #206  
Tarpon Springs, Florida 34689

Telephone: (727) 940-4276  
Facsimile: (727) 940-447

CERTIFICATE OF SERVICE

A true and correct copy of this Supplement to Defendant Charles Edward Lincoln's Motion pursuant to Rule 59(a) or (e) to Alter Judgment of Remand, to reinstate this removed case in Federal Court, and to reconsider the denial of Defendant's Motion to Disqualify David A. Sibley was served by telecopier (facsimile) transmission to (888) 800-9561 on this Beltane/ Walpurgisnacht, Wednesday, the 30<sup>th</sup> Day of April, 2008. A true and correct copy was also served on Shelley Sue Thomson, 415 Windsor Drive, New Braunfels, Texas 78130.

A handwritten signature in black ink, appearing to read 'Charles E. Lincoln, III', with a stylized flourish to the right.

Charles Edward Lincoln, III, *pro se*

Telephone: 727-940-4276

Facsimile: 727-940-4473

e-mail: [charles.e.lincoln@att.net](mailto:charles.e.lincoln@att.net)

1250 South Pinellas Avenue, #206

Tarpon Springs, Florida 34689

Exhibit A:  
David A. Sibley's  
Motion to Withdraw in  
Comal County District Court

## **Main Identity**

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**From:** "David A. Sibley" <ds@davidsibley.com>  
**To:** "sthomson" <sthomson@spinn.net>; "Charles Lincoln" <charles.e.lincoln@att.net>;  
<jon.roland@constitution.org>; <a562005@aol.com>; "Peyton Freiman"  
<freimanthird@gmail.com>  
**Sent:** Wednesday, April 30, 2008 1:51 PM  
**Attach:** motion to withdraw.pdf  
**Subject:** Motion to Withdraw

You can file a response to this motion with the Court, you can file a grievance, etc. but don't contact me again.

Any further dealings between us need to be done through formal channels.

Atalay has already "lost it" – I think partially due to the stresses you have caused.

I sometimes feel I am going to lose it.

You cause me endless frustration and I am done with you. Period.

Any further emails will be viewed as harassment and although I am not real familiar with any laws that may exist on email harassment I will pursue them to the fullest if you press the issue.

No. 2008-119-C	
Shelley Thomson	District Court
vs.	274 <sup>th</sup> District
Charles Lincoln	
Peyton Yates Freiman	Comal County, Texas

## **Motion to Withdraw**

TO THE HONORABLE COURT:

David Sibley and Andrea Atalay respectfully file this Motion to Withdraw.

### **Good Cause**

1. Sibley agreed to seek elimination of the purported liens placed by Defendants on Thomson's house. He got a Temporary Restraining Order (now expired) preventing foreclosure of the liens. He got Charles Lincoln served (which required a motion in Federal Court – Lincoln was served while in Federal Custody). He got a Federal Court Order sanctioning Lincoln modified (If read literally, it originally barred Thomson from proceeding with this lawsuit) -- this modification was obtained in less than a week (there was a very short 10 day deadline for filing the motion – a portion of the 10 days was expired when the order was discovered). He obtained an agreement by Peyton to release the lien (under his individual name). He played a role in remand of this case from Federal Court. His actions in his own suit against Lincoln were helpful to Thomson (including a motion for sanctions against Lincoln ultimately resulting in his arrest and detainment).

2. There was a serious dispute relative to Lincoln. Sibley said Thomson should settle with Lincoln if he agreed to release the purported lien (this was purely hypothetical because Lincoln had never made this offer). Thomson endlessly objected to this. Sibley made clear that he never agreed to do anything but get the lien released so if this was possible it must be done (otherwise Sibley would withdraw). Sibley did not want to pursue Lincoln for a money judgment (he probably is judgment proof absent great effort and luck – at least several large judgments already exist against him). After much acrimony, Thomson agreed to this. Inconsistently, though, now, when Peyton agreed to release the lien, she has refused to settle with Peyton. She has used endless rationalizations. She has a million and one reasons why settling with Peyton by mutual general

release, mutual dismissal with prejudice, and express release of the lien (him individually) is not in her interest. Some of her reasons make no sense at all, some make little sense, and some appear fanciful and obstructionist. However, the bottom line is that Sibley only agreed to get the lien released. Sibley did not agree to pursue Peyton for anything else. Peyton has agreed to release the lien (individually, in exchange for a mutual release and mutual dismissal with prejudice) yet Thomson refuses to accept his offer. Thomson refuses to accept with respect Peyton exactly what was the objective of the representation (release of the lien). Sibley never agreed to do anything else. She seems to believe that Sibley must do whatever she wants (including wasteful and ill-advised actions and things never agreed). Pursuing Peyton for money makes even less sense than pursuing Lincoln. Peyton has the appearance of a college kid (no realistic chance of collection of anything). Thomson refuses to move towards resolution of this case and in fact insists on actions designed to prolong and aggravate this case.

3. Thomson with her friend Jon Roland believe they have legal skills. Many of their ideas are black and white wrong and some are ill advised and some are wasteful of time and resources (they have no concern about wasting Sibley's time and resources). They give detailed lists of how they demand the case be handled. They view Sibley not so much as a lawyer but as a slave who must do exactly what they demand (for free). Some of their tactics Sibley finds offensive (e.g. refusing to settle once the objective of the representation has been achieved) and some are considered unethical (e.g. threatening criminal prosecution for civil advantage). Jon Roland has interfered with Sibley's efforts. Most recently, he has contacted Mr. Clarke (Peyton's lawyer at the time) directly and also Peyton directly. Some of his communications with them would be unethical if made by Sibley (e.g. threats of criminal prosecution for civil advantage). Roland's communications were not made or authorized by Sibley but if someone inferred that (which wouldn't be too hard to do), Sibley could have ethical issues. Sibley did not authorize any of Roland's communications (Sibley received copies of at least some of them). Roland's communications not only created ethical issues but were counter to Sibley's strategy and in Sibley's opinion not constructive. The communications arguably were illegal (practice of law without a license, extortion, etc.). Roland has offered to give Peyton's parents legal help (if Peyton does what Roland wants). Roland has insulted and threatened Peyton's lawyer (who seems to have done a very good job), etc. It seems more than evident that Thomson and Roland do not want Sibley to serve as an attorney. They want Sibley to serve as their puppet. If Sibley's advice had been followed, this case would already be settled against one Defendant (Peyton) and there is

a possibility it could be resolved against the other Defendant very soon (there is a motion for Sanctions pending against Lincoln in a somewhat related case in a different court – Lincoln is constantly sanctioned by the Courts and there is a possibility of a dispositive sanction in the other court affecting this case – Thomson intervened in the related case hoping to benefit from a motion for sanctions in that Court). That would leave this case largely resolved and the objective of the representation largely met (there would be only one unresolved party – a bogus trust existing for the benefit of Lincoln that is a signatory to the fraudulent notice of lien). Whether things would play out as hoped of course is difficult to know, but Thomson will not even allow an attempt at this strategy. She is obstructing Sibley's performance. She refused as recently as last week. Sibley cannot act as lawyer when none of his advice is followed and he is unwilling to be puppet for Thomson and Roland. He believes Thomson and Roland have traits somewhat similar to Lincoln's traits. Every lawyer who gets caught in the Lincoln quagmire gets sanctioned. If Sibley did Thomson's and Roland's bidding rather than exercising his own professional judgment, he would probably end up sanctioned. Even if he didn't end up sanctioned, he would end up wasting massive amounts of time (for free). Thomson like Lincoln does not settle, sends endless emails, and has rather unique and offensive ideas about the law and the Courts and lawyers.

4. Thomson sends repetitive emails (now probably numbering in the hundreds). She asks the same questions over and over and over and over again. Sibley has answered these questions over and over and over and over again. She will repeatedly threaten grievances among other things stating that Sibley has not answered her questions when he has answered them many times (and for other spurious reasons). She makes the same arguments over and over and over again even after Sibley has refuted her arguments over and over and over again (or expressed disagreement). Some of her arguments reflect profound misunderstandings of the law and she expects Sibley to answer endless questions about the law. More often than not, when Sibley explains the law, she disagrees or continues to ask questions about the same issue of law (or ignores his answer). She has recently taken to mixing her comments in her emails with previous emails so it is almost impossible without great effort to determine her new comments making her emails extremely burdensome (undoubtedly in the hope of Sibley missing one of her comments so she can argue that Sibley has not answered one of her questions -- she doesn't set her comments out by bold face, underline, or otherwise). Sibley has repeatedly asked her to identify questions he supposedly hasn't answered and she never has. She just continues her endless repetitions, etc.



5. Thomson has suggested that Sibley and Peyton are having some kind of affair. She has stated to Atalay that Israel should be wiped off the face of the planet (Atalay is Jewish). She also told Atalay that Hitler should have killed all the Jews. Also, she told Atalay that she was putting witchcraft spells on Sibley (she claims to have various psychic abilities including "remote viewing" and believes in numerous para--normal things, for example she believes Lincoln is possessed by an Aztec "deity"). She has tried to sow dissension between Sibley and Atalay by telling inconsistent things to each and trying to turn each against the other. She repeatedly harasses Sibley with comments suggesting that Sibley wants to steal her house (or is in a conspiracy with other lawyers to steal her house), he is stupid, he is unethical, etc. Also, she has suggested that Sibley may be in conspiracy with Lincoln and/or Peyton. When Sibley planned to travel over 100 miles by airplane to a hearing, she refused to pick him up at the airport. She has never paid Sibley a penny and never offered to even reimburse any out of pocket expense. In fact, she mocks the out of pocket expenses incurred (suggesting they are trivial – the amounts are not trivial to Sibley – she has no appreciation whatsoever for Sibley's efforts). Sibley has never demanded payment of a penny but he expects basic courtesies like being picked up at the airport (how far can the airport be out of her way in New Braunsfel – she said "you can take a cab!"). She clearly does not respect Sibley's advice or strategies (or him). As a result, Sibley is unable to act as an attorney in this case. Sibley finds some of Thomson's behaviors highly offensive. When Sibley offered to help Peyton's parents (apparently, Lincoln put a lien on their house for an unknown undoubtedly bogus reason), Thomson accused Sibley of being disloyal. How could helping Peyton's parents hurt her? Why has she been hurt any worse than them and how is she more deserving than them? Further, Roland had suggested to Peyton that Sibley might help Peyton's parents. Thus, Sibley did exactly what Roland suggested and then Shelley complains that Sibley is "disloyal," etc. Sibley views Thomson as a trouble maker, obnoxious, etc. and intensely dislikes her.

6. Thomson is effectively demanding pursuit of objectives that would be unethical (and uneconomic) for Sibley to pursue (She is more interested in seeing Lincoln and Peyton imprisoned than in resolving the civil matter at issue and she seems to really want a monetary judgment – she recently made a comment suggesting this and she very definitely wanted a monetary judgment earlier). Actually, Peyton without dispute did spend money on her behalf, and Peyton might depending on fact findings end up with a monetary judgment against her (but probably not a lien). Sibley believes that she would blame Sibley for this if it occurred even though it would not have occurred if she had settled as Sibley advised her. Sibley never agreed to do whatever Thomson

demanding. She refuses to directly answer questions like, a) "What questions have I not answered," and b) "Exactly, what terms will you settle on." In the second instance, at best, she uses terms like "comprehensive release" but she obviously has a different definition of that than the usual definition. In the first instance, she has never given a direct answer. Her emails are endless and she consumes endless time. She doesn't care and she believes this is her right. She believes that because Sibley agreed to help her, she can change the objectives, endlessly harass, dictate the details of strategy (including offensive and wasteful strategies), waste endless time, etc. She believes Sibley is trapped and she can abuse him as much as she wants. Sibley had originally stated that the purported liens probably would go away with time and the situation would primarily be monitored (unless some effort was made to actually foreclose). She later demanded a more active approach and her request was accommodated to some extent at great expense to Sibley but her demands have become unending and in many instances wasteful, counterproductive, and even unethical. She demands endless efforts and sends endless emails (complaining if some supposed question therein has not been answered). Yet, she cannot pick Sibley up at the airport? Lincoln and Peyton may deserve harassment, prison, or whatever, but Sibley did not agree to do that (and cannot really do that ethically). Sibley very specifically made clear that he did not agree to pursue monetary judgments against Peyton and Lincoln. The only objective that Sibley agreed to seek was to preserve her house and to eliminate the purported liens by the most efficient means (which might be as efficient as simply allowing limitations to expire if no effort was ever made to foreclose). Sibley did not agree to endlessly pursue unnecessary tactics and strategies. Thomson's demands are designed to cause endless litigation and expand the litigation rather than bring it towards resolution (the agreed objective).

7. Thomson's endless emails and over analysis and continuous insults and conflict have irritated Sibley to no end ruining a large portion of his days. She wants to represent herself and control every detail of what happens (with Roland). She should have that chance. She wants to represent herself and Sibley wants to give her that chance by withdrawing. Sibley should not be required to cater to her every demand and should not be required to continue when she refuses all his advice particularly when she refuses a settlement that accomplishes the objective of the representation (with respect to Peyton – her endless arguments of why settlement with Peyton doesn't further her interests in any way in many instances make no sense at all and in other instances are dubious and fanciful at best). If some of her arguments were accepted, then no cause could ever be settled. For example, one of her arguments was that Peyton could always

start a new trust or corporation and sue her again. Well, that is always true. Thomson rarely responds to Sibley's explanations of why her reasoning is erroneous. She just restates her original position in the same or similar terms over and over and over and over again.

8. The attorney client relationship is completely destroyed. Atalay has been suffering even more from Thomson's abuse than Sibley. Atalay has called Sibley on numerous occasions passed the point of tears (literally crying). The most extreme example was when Thomson made offensive comments including that Israel should be wiped off the face of the planet and Hitler should have killed all the Jews, etc. Thomson has repeatedly insulted Atalay including her abilities as a lawyer, her communication abilities, etc. Atalay called the Comal County District Attorney (or one of his representatives) and Thomson went ballistic (Thomson had been discussing this case with the District Attorney). Thomson and Roland clearly want to control everything (including all information). Thomson and Roland clearly want to handle this case themselves and just want a lawyer as a puppet. Sibley does not trust Thomson (neither does Atalay). It is believed Thomson may have been misrepresenting her conversations with the District Attorney and this is why she went ballistic when Atalay called the District Attorney. Thomson is an endless nightmare.

9. Atalay has been in the hospital for several days and it is not clear when she will get well. She has an extremely high fever (over 104 degrees at one point). She shows evidence of stress and exhaustion. It is entirely possible that her condition results from Thomson's endless abuses, insults, etc. Her condition certainly hasn't been helped by Thomson's endless abuses. This situation has just got to stop. It has gotten way, way out of hand. Thomson is an abusive personality. She seems to enjoy harassing, annoying and abusing Sibley and Atalay. Thomson has had plenty of time and many second chances to end her abusive behaviors but she refuses. She received an additional "chance" as recently as last week and responded with the same endless nonsense. A specific very reasonable plan was proposed for resolving the liens on her house and she rejected the plan and continued her endless pattern of abuse (endless insults, threats, etc.). It has to be done her way and no other way. Her way involves refusing settlements that involve exactly what the objective supposedly was (partial resolution of this case). She wants Sibley and Atalay to endless dance to her tune. She is not a lawyer and not only does her demands waste time and money they are likely to embarrass two lawyers severely.

### **Rule 10 Requirements**

10. Thomson has notice that Sibley wishes to withdraw (she has known for weeks probably months). She is hereby given notice that there is a hearing on this motion set on May 13, 2008, at 9:00 a.m. in the 274<sup>th</sup> District Court, Comal County, Texas.

11. There is no known substitute attorney. It is believed that Jon Roland is her de facto substitute attorney (although he is not a lawyer). A copy of this motion is served on him by email.

12. A copy of this motion has been delivered to Thomson by email and certified and first class mail (she uses her email continuously and will without doubt receive notice by email).

13. There are no known settings in this case at this time (other than hearing on motion to withdraw on May 13, 2008 at 9:00 a.m. – a fact that must be made clear because otherwise Thomson would take this sentence out of context and say she was told there was no hearing even though she obviously was told in Paragraph 10). There is a setting in a related case in Corpus Christi (a separate motion to withdraw is filed in the related case).

14. The last known address of Thomson is the address of the home at issue in this case 415 Windsor Lane, New Braunfels, Texas 78132).

15. Thomson has stated emphatically that she will oppose any attempt at withdrawal (she seems to believe withdrawal is impossible and Sibley and Atalay have obligated themselves to endlessly do her bidding regardless of anything – something that hopefully is not true). She has even stated (to Atalay) that she has placed some kind of witchcraft spell on Sibley (This may be true because Sibley feels almost insane whenever he gets an email from Thomson). Thomson specifically stated to Atalay that people who don't do what she wants tend to suffer. This may be true but Sibley believes his suffering will be less if he is allowed to withdraw (he will deal with the witchcraft and the grievances and whatever else comes his way as best he can).

### **Conclusions**

16 Good cause exists for withdrawal. Further representation is literally impossible. The Court should allow both Sibley and Atalay to withdraw. Atalay has never formally appeared in this case but she has been involved in this case. Thomson has stated that Atalay cannot withdraw. The Court should allow Atalay to withdraw to the extent that she is an attorney in this case.

Respectfully Submitted,

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David A. Sibley

P.O. 276

Gregory, Texas 78359

(361) 643-3083 -- Telephone

(888) 800-9561 -- Telecopier

ds@davidsibley.com

State Bar No. 18337600

Attorney In Charge for David A. Sibley and Andrea Atalay

**Certificate of Service**

On this 30<sup>th</sup> day of April, 2008, I served this as follows:

**Via Certified Mail and First Class Mail**

Shelley Thomson  
415 Windsor  
New Braunfels, Texas 78132

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David A. Sibley

**Main Identity**

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**From:** "Peyton Freiman" <freimanthird@gmail.com>  
**To:** "Charles Lincoln" <charles.e.lincoln@att.net>  
**Sent:** Wednesday, April 30, 2008 4:46 PM  
**Subject:** Re: DID YOU REALLY AGREE TO DROP THE LIEN?

For me personally yes. But, for the trust, no. Course Shelly isn't agreeing to the release because she's thinking it's all some sort of conspiracy. But, for me individually I just wanted out of that situation.

-Peyton

On Wed, Apr 30, 2008 at 4:33 PM, Charles Lincoln <charles.e.lincoln@att.net> wrote:  
Peyton: did you really agree to drop the lien?

No. 2008-119-C	
Shelley Thomson	District Court
vs.	274 <sup>th</sup> District
Charles Lincoln Peyton Yates Freiman	Comal County, Texas

## **Order Setting Hearing**

The Motion to Withdraw filed by David Sibley and Andrea Atalay is set for hearing on the 13<sup>th</sup> Day of May, 2008, at 9:00 a.m.

SIGNED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2008

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Judge Presiding